



SENATE BILL No. 1200

June 22, 1994, Introduced by Senators SCHWARZ and O'BRIEN
and referred to the Committee on Health Policy and
Senior Citizens

A bill to amend sections 2821, 9112, 9201, 9203, 9206, 9227,
16221, and 16226 of Act No 368 of the Public Acts of 1978, enti-
tled as amended

"Public health code,"

section 9112 as added by Act No 204 of the Public Acts of 1986
and sections 16221 and 16226 as amended by Act No 133 of the
Public Acts of 1993 being sections 333 2821, 333 9112 333 9201
333 9203, 333 9206, 333 9227, 333 16221, and 333 16226 of the
Michigan Compiled Laws to add sections 9202, 9207, 9217, and
21054u and to repeal certain parts of the act

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 2821, 9112, 9201, 9203, 9206, 9227,
2 16221, and 16226 of Act No 368 of the Public Acts of 1978,
3 section 9112 as added by Act No 204 of the Public Acts of 1986
4 and sections 16221 and 16226 as amended by Act No 133 of the

1 Public Acts of 1993 being sections 333 2821 333 9112, 333 9201,
2 333 9203, 333 9206 333 9227, 333 16221, and 333 16226 of the
3 Michigan Compiled Laws, are amended and sections 9202, 9207,
4 9217, and 21054u are added to read as follows

5 Sec 2821 (1) Birth registration is required for each
6 individual born in this state

7 (2) A record of birth for each live birth ~~which~~ THAT
8 occurs in this state shall be filed at the office of the local
9 registrar not more than 5 days after the birth The birth shall
10 be registered when the filing is completed

11 (3) UPON RECEIPT OF A VITAL RECORD CONSISTING OF A BIRTH
12 REGISTRATION TRANSMITTED BY A LOCAL REGISTRAR PURSUANT TO
13 SECTION 2815(2), THE STATE REGISTRAR SHALL TRANSMIT THE INFORMA-
14 TION CONTAINED IN THE BIRTH REGISTRATION TO THE CHILDHOOD IMMUNI-
15 ZATION REGISTRY CREATED IN SECTION 9207

16 Sec 9112 (1) The pharmaceutical products fund is created
17 in the state treasury and shall be administered by the
18 department The fund shall only be expended as provided in this
19 section

20 (2) The state treasurer shall credit to the pharmaceutical
21 products fund all revenues received by the department pursuant to
22 section 9111

23 (3) The department shall utilize the pharmaceutical products
24 fund to update and improve the facilities used to develop and
25 produce pharmaceutical, biologic, and diagnostic products pursu-
26 ant to section 9111, ~~or~~ to otherwise improve the biologics

1 products program, FOR RESEARCH AND DEVELOPMENT, AND TO SUPPORT
2 IMMUNIZATION PROGRAMS IN THE STATE, pursuant to appropriations

3 Sec 9201 (1) As used in this part

4 (a) "Camping" means attendance at a residential, day, troop,
5 or travel camp conducted for more than 4 school-age children,
6 apart from their parents, guardians, or persons in loco parentis
7 for 5 or more days or parts ~~thereof~~ OF DAYS in a 14-day
8 period

9 (b) "Immunizing agent" means a vaccine, antibody prepara-
10 tion, or other substance used to increase an individual's immu-
11 nity to a disease

12 (c) "INFECTIOUS AGENT" MEANS THAT TERM AS DEFINED IN
13 R 325 9031 OF THE MICHIGAN ADMINISTRATIVE CODE

14 (d) "VACCINE" MEANS AN AGENT FOR IMMUNIZATION AGAINST A DIS-
15 EASE OR INFECTION CAUSED BY AN INFECTIOUS AGENT

16 (2) In addition article 1 contains general definitions and
17 principles of construction applicable to all articles in this
18 code

19 SEC 9202 (1) THE DEPARTMENT SHALL ACQUIRE VACCINES IN A
20 SUFFICIENT QUANTITY TO PROVIDE VACCINATIONS TO IMMUNIZE THE CHIL-
21 DREN OF THIS STATE AGAINST EACH OF THE FOLLOWING DISEASES OR
22 INFECTIONS, AS REQUIRED UNDER THIS PART

23 (A) DIPHTHERIA

24 (B) HAEMOPHILUS INFLUENZAE TYPE B

25 (C) HEPATITIS B

26 (D) MEASLES

1 (E) MUMPS

2 (F) PERTUSSIS

3 (G) POLIO

4 (H) RUBELLA

5 (I) TETANUS

6 (2) THE DEPARTMENT SHALL DISTRIBUTE THE VACCINES ACQUIRED
7 UNDER SUBSECTION (1) FREE OF CHARGE TO EACH HEALTH CARE PROVIDER
8 IN THE STATE DETERMINED BY THE DEPARTMENT TO BE PERFORMING VACCI-
9 NATIONS REQUIRED UNDER THIS PART

10 (3) A HEALTH CARE PROVIDER WHO RECEIVES A VACCINE UNDER
11 SUBSECTION (2) SHALL NOT CHARGE THE PATIENT TO WHOM THE VACCINE
12 IS ADMINISTERED FOR THE VACCINE BUT MAY CHARGE A REASONABLE FEE
13 FOR ADMINISTERING THE VACCINE

14 Sec 9203 (1) A local health department shall offer free
15 immunization treatments to the public for protection in case of
16 an epidemic or threatened epidemic of a disease as ordered by the
17 director

18 (2) A local health department shall conduct free periodic
19 immunization clinics for children residing in its jurisdiction
20 The local health department shall publicize the free immunization
21 service and the time and place of the clinics

22 (3) ~~When the department approves a mass immunization pro-~~
23 ~~gram to be administered in this state, health personnel employed~~
24 ~~by a governmental entity who are required to participate in the~~
25 ~~program, or any other individual authorized by the director or a~~
26 ~~local health officer to participate in the program without~~
27 ~~compensation,~~ A HEALTH CARE PROVIDER WHO RECEIVES A VACCINE

1 UNDER SECTION 9202(2) AND ADMINISTERS THE VACCINE IN COMPLIANCE
 2 WITH SECTION 9202(3) is not liable ~~to any person for~~ IN A civil
 3 ACTION FOR damages as a result of an act or omission BY THE
 4 HEALTH CARE PROVIDER causing illness, reaction, or adverse effect
 5 from the ~~use of a drug or vaccine, in the program,~~ except for
 6 AN ACT OR OMISSION AMOUNTING TO gross negligence or ~~wilful~~
 7 WILLFUL and wanton misconduct ~~This subsection does not exempt~~
 8 ~~a drug~~ A VACCINE manufacturer ~~from liability for a drug or vac-~~
 9 ~~cine used in the program~~ IS NOT LIABLE IN A CIVIL ACTION FOR
 10 DAMAGES AS A RESULT OF AN ACT OR OMISSION IN MANUFACTURING A VAC-
 11 CINE IF THE VACCINE WAS APPROVED FOR DISTRIBUTION BY THE FEDERAL
 12 FOOD AND DRUG ADMINISTRATION

13 Sec 9206 (1) ~~Upon administration of each dose of an~~
 14 ~~immunizing agent to a child, the health professional, the local~~
 15 ~~health department, clinic, or other agency~~ THE HEALTH CARE PRO-
 16 VIDER ADMINISTERING A VACCINE TO A CHILD shall present the person
 17 ~~bringing~~ ACCOMPANYING the child WITH a written certificate OF
 18 VACCINATION, or make an entry ~~thereof~~ OF THE VACCINATION on a
 19 certificate in the person's possession ~~Certificate~~ THE
 20 CERTIFICATE shall be in a form ~~approved~~ PRESCRIBED by the
 21 department and shall indicate the diseases OR INFECTIONS for
 22 which the child has been immunized, the number of doses given,
 23 the dates when administered, and whether further immunizations
 24 are indicated

25 (2) A HEALTH CARE PROVIDER SHALL REPORT TO THE DEPARTMENT
 26 EACH VACCINATION ADMINISTERED BY THE HEALTH CARE PROVIDER
 27 PURSUANT TO RULES PROMULGATED UNDER SECTION 9227

1 SEC 9207 (1) THE DEPARTMENT SHALL ESTABLISH A REGISTRY,
2 TO BE KNOWN AS THE "CHILDHOOD IMMUNIZATION REGISTRY", TO RECORD
3 INFORMATION REGARDING IMMUNIZATIONS PERFORMED UNDER THIS PART
4 THE DEPARTMENT SHALL ENTER INFORMATION RECEIVED UNDER
5 SECTIONS 2821 AND 9206 IN THE REGISTRY

6 (2) THE INFORMATION CONTAINED IN THE CHILDHOOD IMMUNIZATION
7 REGISTRY IS SUBJECT TO THE CONFIDENTIALITY AND DISCLOSURE
8 REQUIREMENTS OF SECTIONS 2637 AND 2888 AND TO THE RULES PROMUL-
9 GATED UNDER SECTION 9227

10 SEC 9217 (1) THE VACCINE ACQUISITION FUND IS ESTABLISHED
11 IN THE STATE TREASURY

12 (2) THE MONEY IN THE VACCINE ACQUISITION FUND SHALL BE
13 EXPENDED ONLY AS PROVIDED IN THIS SECTION

14 (3) THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
15 VACCINE ACQUISITION FUND INTEREST AND EARNINGS FROM VACCINE
16 ACQUISITION FUND INVESTMENT SHALL BE CREDITED TO THE VACCINE
17 ACQUISITION FUND

18 (4) THE UNENCUMBERED BALANCE IN THE VACCINE ACQUISITION FUND
19 AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE VACCINE
20 ACQUISITION FUND AND SHALL NOT REVERT TO THE GENERAL FUND THE
21 VACCINE ACQUISITION FUND MAY RECEIVE GIFTS AND DEVISES AND OTHER
22 MONEY AS PROVIDED BY LAW

23 (5) THE DEPARTMENT SHALL USE THE VACCINE ACQUISITION FUND
24 ONLY TO ACQUIRE AND DISTRIBUTE VACCINES UNDER SECTION 9202

25 Sec 9227 The department shall promulgate rules to imple-
26 ment this part, including, ~~specification of the diseases against~~

1 ~~which children shall be immunized, age~~ BUT NOT LIMITED TO, RULES
2 GOVERNING ALL OF THE FOLLOWING

3 (A) AGE periods for immunizations ~~, the~~

4 (B) THE minimum ages at which immunization may be
5 commenced ~~, the~~

6 (C) THE minimum number of doses required during a specified
7 time period ~~and minimum~~

8 (D) MINIMUM levels of immunization for children in school

9 (E) REPORTING UNDER SECTION 9206(2)

10 (F) THE ACQUISITION, MAINTENANCE AND DISSEMINATION OF
11 INFORMATION CONTAINED IN THE CHILDHOOD IMMUNIZATION REGISTRY
12 ESTABLISHED UNDER SECTION 9207

13 Sec 16221 The department may investigate activities
14 related to the practice of a health profession by a licensee, a
15 registrant, or an applicant for licensure or registration The
16 department may hold hearings, administer oaths, and order rele-
17 vant testimony to be taken and shall report its findings to the
18 appropriate disciplinary subcommittee The disciplinary subcom-
19 mittee shall proceed under section 16226 if it finds that any of
20 the following grounds exist

21 (a) A violation of general duty, consisting of negligence or
22 failure to exercise due care, including negligent delegation to
23 or supervision of employees or other individuals, whether or not
24 injury results, or any conduct, practice, or condition which
25 impairs, or may impair, the ability to safely and skillfully
26 practice the health profession

1 (b) Personal disqualifications, consisting of any of the
2 following

3 (1) Incompetence

4 (11) Subject to sections 16165 to 16170a, substance abuse as
5 defined in section 6107

6 (111) Mental or physical inability reasonably related to and
7 adversely affecting the licensee's ability to practice in a safe
8 and competent manner

9 (1v) Declaration of mental incompetence by a court of compe-
10 tent jurisdiction

11 (v) Conviction of a misdemeanor punishable by imprisonment
12 for a maximum term of 2 years, a misdemeanor involving the ille-
13 gal delivery, possession or use of alcohol or a controlled sub-
14 stance, or a felony

15 A certified copy of the court record is conclusive evidence
16 of the conviction

17 (v1) Lack of good moral character

18 (v11) Conviction of a criminal offense under sections 520a
19 to 520l of the Michigan penal code Act No 328 of the Public
20 Acts of 1931, being sections 750 520a to 750 520l of the Michigan
21 Compiled Laws A certified copy of the court record is conclu-
22 sive evidence of the conviction

23 (v111) Conviction of a violation of section 492a of the
24 Michigan penal code, Act No 328 of the Public Acts of 1931,
25 being section 750 492a of the Michigan Compiled Laws A certi-
26 fied copy of the court record is conclusive evidence of the
27 conviction

1 (1x) Conviction of a misdemeanor or felony involving fraud
2 in obtaining or attempting to obtain fees related to the practice
3 of a health profession A certified copy of the court record is
4 conclusive evidence of the conviction

5 (x) Final adverse administrative action by a licensure, reg-
6 istration, disciplinary, or certification board involving the
7 holder of, or an applicant for, a license or registration regu-
8 lated by another state or a territory of the United States A
9 certified copy of the record of the board is conclusive evidence
10 of the final action

11 (x1) Conviction of a misdemeanor that is reasonably related
12 to or that adversely affects the licensee's ability to practice
13 in a safe and competent manner A certified copy of the court
14 record is conclusive evidence of the conviction

15 (c) Prohibited acts, consisting of any of the following

16 (1) Fraud or deceit in obtaining or renewing a license or
17 registration

18 (11) Permitting the license or registration to be used by an
19 unauthorized person

20 (111) Practice outside the scope of a license

21 (1v) Obtaining, possessing, or attempting to obtain or pos-
22 sess a controlled substance as defined in section 7104 or a drug
23 as defined in section 7105 without lawful authority or selling,
24 prescribing, giving away, or administering drugs for other than
25 lawful diagnostic or therapeutic purposes

26 (d) Unethical business practices, consisting of any of the
27 following

- 1 (1) False or misleading advertising
- 2 (11) Dividing fees for referral of patients or accepting
- 3 kickbacks on medical or surgical services, appliances, or medica-
- 4 tions purchased by or in behalf of patients
- 5 (111) Fraud or deceit in obtaining or attempting to obtain
- 6 third party reimbursement
- 7 (e) Unprofessional conduct, consisting of any of the
- 8 following
- 9 (1) Misrepresentation to a consumer or patient or in obtain-
- 10 ing or attempting to obtain third party reimbursement in the
- 11 course of professional practice
- 12 (11) Betrayal of a professional confidence
- 13 (111) Promotion for personal gain of an unnecessary drug
- 14 device, treatment, procedure, or service
- 15 (1v) Directing or requiring an individual to purchase or
- 16 secure a drug, device, treatment, procedure, or service from
- 17 another person, place, facility, or business in which the
- 18 licensee has a financial interest
- 19 (f) Failure to report a change of name or mailing address
- 20 within 30 days after the change occurs
- 21 (g) A violation, or aiding or abetting in a violation, of
- 22 this article or of rules promulgated under this article
- 23 (h) Failure to comply with a subpoena issued pursuant to
- 24 this part, failure to respond to a complaint issued under this
- 25 article or article 7, failure to appear at a compliance confer-
- 26 ence or an administrative hearing, or failure to report under
- 27 section 16222 or 16223

(i) Failure to pay an installment of an assessment levied pursuant to section 2504 of the insurance code of 1956, Act No 218 of the Public Acts of 1956, as amended, being section 500 2504 of the Michigan Compiled Laws, within 60 days after notice by the appropriate board

(j) A violation of section 17013 or 17513

(k) Failure to meet 1 or more of the requirements for licensure or registration under section 16174

(l) A violation of section 17015 or 17515

(M) FAILURE TO REPORT VACCINATION INFORMATION UNDER SECTION 9206

Sec 16226 (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation

Violations of Section 16221

Sanctions

Subdivision (a), (b)(11),	Probation, limitation, denial,
(b)(1v), (b)(v1), or	suspension, revocation,
(b)(v11)	restitution, community service,
	or fine
Subdivision (b)(v111)	Revocation or denial
Subdivision (b)(1),	Limitation, suspension,
(b)(111), (b)(v),	revocation, denial,
(b)(1x),	probation, restitution,
(b)(x), or (b)(x1)	community service, or fine

1	Subdivision (c) (1)	Denial, revocation, suspension,
2		probation, limitation,
3		community service, or fine
4	Subdivision (c) (11)	Denial, suspension, revocation,
5		restitution, community service,
6		or fine
7	Subdivision (c) (111)	Probation, denial, suspension,
8		revocation, restitution, commu-
9		nity service, or fine
10	Subdivision (c) (1v)	Fine, probation, denial,
11	or (d) (111)	suspension, revocation, commu-
12		nity service,
13		or restitution
14	Subdivision (d) (1)	Reprimand fine, probation,
15	or (d) (11)	community service denial,
16		or restitution
17	Subdivision (e) (1)	Reprimand fine probation
18		limitation, suspension, commu-
19		nity service, denial, or
20		restitution
21	Subdivision (e) (11)	Reprimand, probation,
22	or (h)	suspension, restitution, commu-
23		nity service, denial, or fine
24	Subdivision (e) (111)	Reprimand, fine, probation,
25	or (e) (1v)	suspension, revocation, limita-
26		tion, community service,
27		denial, or restitution

1 Subdivision (f) Reprimand or fine
 2 Subdivision (g) Reprimand, probation, denial,
 3 suspension, revocation, limita-
 4 tion, restitution, community
 5 service, or fine
 6 Subdivision (l) Suspension or fine
 7 Subdivision (j) Reprimand or fine
 8 Subdivision (k) Reprimand, denial, or
 9 limitation
 10 Subdivision (l) OR (M) Denial, revocation, restitution,
 11 probation, suspension limita-
 12 tion, reprimand, or fine
 13 (2) Determination of sanctions for violations under this
 14 section shall be made by a disciplinary subcommittee If, during
 15 judicial review, the court of appeals determines that a final
 16 decision or order of a disciplinary subcommittee prejudices sub-
 17 stantial rights of the petitioner for any of the grounds listed
 18 in section 106 of the administrative procedures act of 1969 Act
 19 No 306 of the Public Acts of 1969 being section 24 306 of
 20 Michigan Compiled Laws, and holds that the final decision or
 21 order is unlawful and is to be set aside, the court shall state
 22 on the record the reasons for the holding and may remand the case
 23 to the disciplinary subcommittee for further consideration
 24 (3) A disciplinary subcommittee may impose a fine of up to,
 25 but not exceeding, \$250,000 00 for a violation of
 26 section 16221(a) or (b)

1 (4) A disciplinary subcommittee may require a licensee or
2 registrant or an applicant for licensure or registration who has
3 violated this article or article 7 or a rule promulgated under
4 this article or article 7 to satisfactorily complete an educa-
5 tional program, a training program, or a treatment program, a
6 mental, physical, or professional competence examination, or a
7 combination of those programs and examinations

8 SEC 21054U (1) EFFECTIVE JANUARY 1, 1995, A HEALTH MAIN-
9 TENANCE ORGANIZATION GROUP OR INDIVIDUAL CONTRACT THAT OFFERS
10 DEPENDENT COVERAGE SHALL PROVIDE OR OFFER TO PROVIDE THAT THE
11 DEPENDENT COVERAGE APPLICABLE TO CHILDREN INCLUDE COVERAGE FOR
12 VACCINES TO IMMUNIZE AGAINST THE DISEASES OR INFECTIONS LISTED IN
13 SECTION 9202 AND SHALL PROVIDE OR OFFER TO PROVIDE FOR COVERAGE
14 FOR THEIR ADMINISTRATION FROM THE MOMENT OF BIRTH OR PLACEMENT
15 FOR ADOPTION THROUGH THE AGE OF 18

16 (2) COVERAGE UNDER SUBSECTION (1) IS NOT SUBJECT TO ANY
17 COPAYMENTS, DEDUCTIBLES, OR DOLLAR LIMITS, AND THIS EXEMPTION
18 SHALL BE EXPLICITLY PROVIDED FOR IN THE CONTRACT

19 Section 2 Section 9204 of Act No 368 of the Public Acts
20 of 1978, being section 333 9204 of the Michigan Compiled Laws, is
21 repealed